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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648-BH02

Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole Management in the Groundfish Fisheries of the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of fishery management plan amendment; request for comments.

SUMMARY: The North Pacific Fishery Management Council submitted Amendment 116 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) to the Secretary of Commerce (Secretary) for review. If approved, Amendment 116 would limit access to the Bering Sea and Aleutian Islands (BSAI) Trawl Limited Access Sector (TLAS) yellowfin sole directed fishery by vessels delivering to motherships. Amendment 116 would establish eligibility criteria based on historical participation in the fishery, issue endorsements to groundfish License Limitation Program (LLP) licenses that meet eligibility criteria, and authorize delivery of BSAI TLAS yellowfin sole to motherships by only those vessels with an assigned groundfish LLP license with a BSAI catcher vessel TLAS yellowfin sole directed fishery endorsement.

This action is necessary to provide benefits to historic participants, mitigate the risk that a “race for fish” could develop, and help to maintain the consistently low rates of halibut bycatch in the BSAI TLAS yellowfin sole directed fishery. Amendment 116 is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the BSAI FMP, and other applicable law.

DATES: Comments must be received no later than *[INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2017-0083, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0083*, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly

accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 116 and the Draft Environmental Assessment/Regulatory Impact Review prepared for this action (collectively the “Analysis”) may be obtained from www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Bridget Mansfield, (907)586-7228.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each regional fishery management council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce. The Magnuson-Stevens Act also requires that NMFS, upon receiving a fishery management plan amendment, immediately publish a notice in the *Federal Register* announcing that the amendment is available for public review and comment. This notice announces that proposed Amendment 116 to the FMP is available for public review and comment.

NMFS manages the groundfish fisheries in the exclusive economic zone under the FMPs. The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600 and 679.

Amendment 116 to the FMP would amend the species and gear endorsements on groundfish LLP licenses. The LLP was implemented under Amendments 39 and 41 to the FMP, and NMFS published the final rule to implement these amendments on October

1, 1998 (63 FR 52642). The LLP limits access to the groundfish, crab, and scallop fisheries in the BSAI and the Gulf of Alaska (GOA), by requiring that persons hold and assign a license to each vessel that is used to fish in federally managed fisheries, with some limited exemptions. The LLP is intended to prevent unlimited entry into Federally managed fisheries and to limit the ability of a person to assign an LLP license derived from the historic landing activity of a vessel in one area, using a specific fishing gear or operational type, to be used in other areas, with other gears, or for other operational types in a manner that could expand fishing capacity. Licenses issued under the LLP authorize, through individual endorsements, fishing activities in specific fishing areas, gear types, and vessel operations as catcher vessels (CVs) or catcher/processors (CPs). Once issued, the components of the LLP license cannot be transferred independently.

Amendment 116 would implement a new groundfish LLP license endorsement to authorize a CV with trawl gear to deliver its catch to a mothership (a vessel that receives and processes catch from another vessel) in the BSAI TLAS yellowfin sole directed fishery. Vessels without this endorsement would not be authorized to deliver catch to motherships when participating in the BSAI TLAS yellowfin sole directed fishery. The Council determined, and NMFS agrees, that this action is an appropriate response to a sharp increase in CV participation delivering to motherships in the BSAI TLAS yellowfin sole directed fishery beginning in 2015. This increased effort has increased harvest pressure in this fully utilized fishery, such that the fishing season has been severely foreshortened over the past two years and has caused concern over the potential for increased halibut bycatch.

In June 2017, the Council adopted Amendment 116, which would limit access to the offshore BSAI TLAS yellowfin sole fishery by CVs and CPs acting as CVs that deliver BSAI TLAS yellowfin sole to motherships. If approved, Amendment 116 would amend the FMP to require a vessel be designated on a groundfish LLP license with a BSAI TLAS yellowfin sole directed fishery endorsement in order to deliver its catch of yellowfin sole in the BSAI TLAS fishery to a mothership. A groundfish LLP license would receive the endorsement if it is credited with a qualifying landing. A groundfish LLP license would be eligible to be credited with a qualifying landing if a vessel designated on it was used to make at least one legal trip target landing of BSAI TLAS yellowfin sole to a mothership in any one year from 2008 through 2015. Under Amendment 116, “trip target” would mean an amount of retained aggregate groundfish species that is greater than the retained amount of any other groundfish species for that trip. The Council recognized this eligibility criteria may qualify more groundfish LLP licenses than vessels with a qualifying landing, because some vessels with a qualifying landing may have been designated on more than one groundfish LLP license during the qualifying period. Therefore, if a vessel designated on more than one groundfish LLP license made a qualifying landing during the qualifying period, only those groundfish LLP licenses on which the vessel was designated when it made a legal trip target landing in a BSAI TLAS fishery would be eligible to be credited with a qualifying landing. In such cases, Amendment 116 would require the vessel owner to specify only one groundfish LLP license that would be credited with the qualifying landing(s).

Amendment 116 would amend four sections of the FMP. First, in Table ES-2 in the Executive Summary, row “License and Permits” would have a sentence added to read, “Trawl gear vessels engaged in directed fishing for BSAI TLAS yellowfin sole and delivering to a mothership must qualify for a BSAI TLAS yellowfin sole directed fishery endorsement.”

Second, under section 3.3.1 “License Limitation Program,” Amendment 116 would add a new subsection entitled “3.3.1.3 Species and Gear Endorsements for Vessels Using Trawl Gear.” This new subsection would state that a vessel engaged in directed fishing for yellowfin sole in the trawl limited access sector in the BSAI management area using trawl gear and operating as a catcher vessel delivering catch to a mothership must hold an area endorsement and general license with a trawl limited access sector yellowfin sole directed fishery endorsement.

Finally, a section would be added to Appendix A, summarizing the main provisions of Amendment 116, and the Table of Contents would be revised.

The proposed rule to implement proposed Amendments 116 provides the details of the eligibility criteria for a BSAI TLAS yellowfin sole directed fishery endorsement to a groundfish LLP license, the process to establish eligibility of individual groundfish LLP licenses based on historical participation in the fishery, and issuance of the endorsements. The specific groundfish LLP licenses eligible for such an endorsement would be named in the proposed rule and in the regulations implementing the rule.

The Council considered a range of dates and levels of participation, as well as conditions to increase participation when yellowfin TAC is high, before adopting its

preferred alternative for Amendment 116. The Council determined and NMFS agrees that the eligibility requirements for a BSAI TLAS yellowfin sole directed fishery endorsement within Amendment 116 would balance the need to limit entry to the BSAI TLAS yellowfin sole directed fishery to control the pace of fishing and halibut bycatch with the needs of more recent participants by continuing to provide harvest opportunities in this fishery for AFA CPs and CVs, and non-AFA CVs.

NMFS is soliciting public comments on proposed Amendment 116 through the end of the comment period (see **DATES**). NMFS intends to publish in the *Federal Register* and seek public comment on a proposed rule that would implement Amendments 116, following NMFS' evaluation of the proposed rule under the Magnuson-Stevens Act.

Respondents do not need to submit the same comments on Amendment 116 and the proposed rule. All relevant written comments received by the end of the applicable comment period, whether specifically directed to the FMP amendments or the proposed rule will be considered by NMFS in the approval/disapproval decision for Amendment 116 and addressed in the response to comments in the final decision. Comments received after end of the applicable comment period will not be considered in the

approval/disapproval decision on Amendment 116. To be considered, comments must be received, not just postmarked or otherwise transmitted, by the last day of the comment period (see **DATES**).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 14, 2018.

Kathleen E. Barrett,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

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